

Proposed State Plan For Environmental Water Account

(Note: not yet a freestanding position paper – needs further discussion, several options are outlined below)

PURPOSE: Outline State proposal for Environmental Water Account, including:

- (1) Environmental baseline,
- (2) EWA assets, and
- (3) ESA assurances

Attachment 1: Quantifying B2 Components

Attachment 2: Definition of B2 Terms

Attachment 3: 4-10-2000 EWA assets recommendations

Environmental Water Account – The components are the environmental baseline, EWA assets (both initial and long term) and ESA assurances.

Discussion. There are three conceptual options. Which option works best will depend in part on the magnitude of the acre-feet difference in the State and Federal positions on the baseline.

- a. **OPTION 1:** Agree to environmental baseline, develop an EWA of 300,000 acre-feet or more and get “full assurances” (which are less than 100 percent) from fishery regulatory agencies. → **FEDERAL APPROACH**
- b. **OPTION 2:** Agree to environmental baseline, develop additional water supplies and operational tools that are shared between the EWA and water users, do not get “full assurances.”
- c. **OPTION 3:** Agree to environmental baseline, develop additional water supplies and operational tools that are shared between the EWA and water users, and get “full assurances” (which are less than 100 percent) from fishery regulatory agencies. → **WATER USER APPROACH**

In all three cases it is recommended that the State position be the same for the environmental baseline. The variables are how the assets / tools are allocated and the degree of ESA assurances provided. The environmental baseline is recommended below followed by three options (1, 2 and 3) for assets and assurances.

Environmental Baseline

- a. 1995 Water Quality Control Plan
- b. Existing winter run biological opinion
- c. Existing Delta smelt biological opinion, with the disputed 2:1 provision considered a desired but voluntary action
- d. Phased Trinity decision

- Implement DFG recommendations regarding flow release flexibility
- Full implementation is phased in as water management tools come on line.
- e. Modified b2 implementation plan
 - Reset → Delete the "reset" provision (Section B.1. of the DOI Implementation Plan). *[Alternative approach is restricting use of "reset" amount to upstream flow augmentation – no additional export reductions]*
 - Offset → Delete the "offset" provision (this is defined in Attachment 2).
 - ESA Use → Firm up policy for use of b2 water for prescribed ESA actions
 - WQCP Cap → Delete the 450,000 acre-feet cap on use of b2 water to meet the CVP share of the Water Quality Control Plan. *[Alternative approach: In years when the CVP obligation under the WQCP exceeds the 450,000 acre-feet annual cap for use of b2 water, the amount of the exceedence shall be accumulated and an equal amount shall be allocated from the b2 account in future years when the CVP obligation is less than the cap. Taking into account the unpredictable nature of hydrology as well as the expected low level of probability that the cap would be exceeded, every reasonable effort shall be made to increase CVP water deliveries by the amount of the cumulative exceedence as soon as practicable, not to exceed _____ acre-feet per year.]*
- a. B2 Crediting Issue → b2 water releases for upstream fishery purposes at times become available for export in the Delta when only the SWP has export capacity. This issue is characterized by the Federal Team as a "windfall" and by the State Team as allowed under California water rights law and the accounting methodology under the Federal-State Coordinated Operations Agreement. This issue is tied fundamentally to the assumptions leading to the COA and needs to be settled in that context. Suggest beginning discussions focused on the Schuster March 3, 2000 memorandum (outcome cannot be pre-determined without further technical discussions between DWR and USBR).

"Accord" Interpret

OPTION 1 -- full EWA, "full" assurances

EWA Assets

- a. Implement 4-10-2000 recommended initial actions. All tools go to EWA.
- b. Support concept of sharing benefits of future permanent water supply augmentation projects to build up the EWA to a scientifically supportable level, not to exceed _____ acre-feet per year.
- c. Scientific credibility for EWA actions (as well as all CALFED actions) must be part of the underpinning of the program. Minimize subjective decisions in developing and justifying elements and magnitude of EWA.

ESA Assurances

There has been discussion about "no assurances" vs. "full assurances." No proposal for full, absolutely guaranteed assurances has been put forth by the

federal regulatory agencies. Conceptually there is appeal for matching a level of risk with a level of certainty. To that end and recognizing the State proposal above for an environmental baseline and EWA, the following ESA assurances package is recommended:

- No increased water restrictions above the baseline due to conditions imposed by ESA biological opinions, other than exceeding take limits which are found to threaten jeopardy. This includes pending biological opinions for spring run Chinook salmon, steelhead trout and Sacramento splittail.
- EWA to be used first to compensate (i.e. "no net loss") for requested additional voluntary measures to improve conditions for listed fish species, second for "take" exceedence which threatens jeopardy if water available.

OPTION 2 – shared assets / tools, less than full assurances (compromise position which assumes that regulatory agencies will not provide full assurances for a lower level of EWA assets)

EWA Assets

Same as Option 1 except that all assets are shared equally between the EWA and water users.

ESA Assurances

Same as Option 1 except that no assurances after balance of EWA used for discretionary measures (no guarantee of "no net loss" for anything other than "take" which threatens jeopardy).

OPTION 3 – shared assets, full assurances (option preferred primarily by export water users)

EWA Assets

Same as Option 2 (shared equally with water users).

ESA Assurances

Same as Option 1.